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SERIAL NUMBER	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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08/479,920 06/07/95 BOEHM

M 214/226  
EXAMINER

KILLOS, P

ART UNIT PAPER NUMBER

12M2/0515

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1204

DATE MAILED:

05/15/96

This is a communication from the examiner in charge of your application.  
COMMISSIONER OF PATENTS AND TRADEMARKS

☐ This application has been examined ☐ Responsive to communication filed on \_\_\_\_\_ ☐ This action is made final.

A shortened statutory period for response to this action is set to expire Three month(s), \_\_\_\_\_ days from the date of this letter.  
Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:

- |   |   |
|---|---|
| 1. <input type="checkbox"/> Notice of References Cited by Examiner, PTO-892.        | 2. <input type="checkbox"/> Notice of Draftsman's Patent Drawing Review, PTO-948. |
| 3. <input type="checkbox"/> Notice of Art Cited by Applicant, PTO-1449.             | 4. <input type="checkbox"/> Notice of Informal Patent Application, PTO-152.       |
| 5. <input type="checkbox"/> Information on How to Effect Drawing Changes, PTO-1474. | 6. <input type="checkbox"/> _____   |

Part II SUMMARY OF ACTION

1. ☐ Claims 1-3, 10-13 and 33-44 are pending in the application.

Of the above, claims \_\_\_\_\_ are withdrawn from consideration.

2. ☐ Claims 4-9 and 14-32 have been cancelled.

3. ☐ Claims 10-13 are allowed.

4. ☐ Claims 1-3 33-44 are rejected.

5. ☐ Claims \_\_\_\_\_ are objected to.

6. ☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.

7. ☐ This application has been filed with informal drawings under 37 C.F.R. 1.85 which are acceptable for examination purposes.

8. ☐ Formal drawings are required in response to this Office action.

9. ☐ The corrected or substitute drawings have been received on \_\_\_\_\_. Under 37 C.F.R. 1.84 these drawings are ☐ acceptable; ☐ not acceptable (see explanation or Notice of Draftsman's Patent Drawing Review, PTO-948).

10. ☐ The proposed additional or substitute sheet(s) of drawings, filed on \_\_\_\_\_, has (have) been ☐ approved by the examiner; ☐ disapproved by the examiner (see explanation).

11. ☐ The proposed drawing correction, filed \_\_\_\_\_, has been ☐ approved; ☐ disapproved (see explanation).

12. ☐ Acknowledgement is made of the claim for priority under 35 U.S.C. 119. The certified copy has ☐ been received ☐ not been received ☐ been filed in parent application, serial no. \_\_\_\_\_; filed on \_\_\_\_\_.

13. ☐ Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.

14. ☐ Other

EXAMINER'S ACTION

Serial Number: 08/479,920

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Art Unit: 1204

Claims 1-3 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1 and 2 of copending application Serial No. 08/472,784. Although the conflicting claims are not identical, they are not patentably distinct from each other because every element of claims 1 and 2 of 08/472784 is in claims 1-3 of 08/479,920.

This is a *provisional* obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claims 1-3 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 2, 3, and 5 of copending application Serial No. 08/485,386. Although the conflicting claims are not identical, they are not patentably distinct from each other because every element of claims 1, 2, 3, and 5 of 08/485,386 is in claims 1-3 of 08/479,920. It is not relevant whether or not the term "ligand" or "compound" is used. In this instance, they read on each other.

This is a *provisional* obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Serial Number: 08/479,920

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Art Unit: 1204


Claims 1-3 and 33-44 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The term "ligand" is overly broad and indefinite. The claim should specifically recite the compounds intended.

Claims 10-13 are considered allowable.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul Killos whose telephone number is (703) 308-0135. The fax phone number for this Group is (703) 308-4556.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-1235.

  
PAUL J. KILLOS  
PRIMARY EXAMINER  
ART UNIT 123  
*124*

KILLOS:jd  
MAY 08, 1996